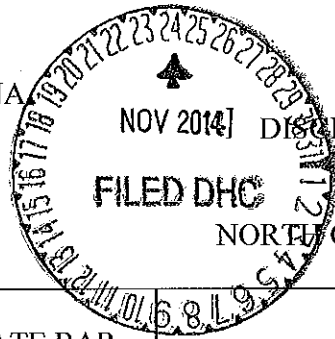


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING  
COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
14 DHC 35

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

JAMES H. PARDUE, Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar ("State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the North Carolina General Statutes, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, James H. Pardue ("Pardue" or "Defendant"), was admitted to the North Carolina State Bar on 22 August 1981 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

3. During the relevant periods referred to herein, Pardue was engaged in the practice of law in the State of North Carolina and maintained a law office in Cary, Wake County, North Carolina.

4. Pardue's law practice from 2005 through 2008 consisted almost entirely of real estate closing transactions.

5. Pardue closed an average of 500 real estate transactions per year from 2005 through 2008.

6. Pardue maintained a general attorney trust account with SunTrust bank, account number ending 1283 (hereinafter "trust account").

7. Pardue maintained the trust account for his real estate practice.

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8. On 10 July 2008, Pardue was the subject of a random audit of his trust account.
9. The random audit showed deficiencies in Pardue's management of his trust account.
10. The random audit also showed that Pardue held less money in his trust account than he was required to hold for clients.
11. The shortage in Pardue's trust account was caused by clerical errors and Pardue's failure to stop payment on two checks before issuing duplicate checks.
12. Pardue had failed to reimburse the trust account for the shortage in his trust account until after the random audit when he deposited \$6,022.90 into the trust account on 29 September 2008 and \$9,927.07 into the trust account on 31 October 2008.
13. As a result of the deficiencies found during the random audit, the State Bar conducted an investigative audit of Pardue's trust account for the period 1 January 2006 through 31 October 2008.
14. The random and investigative audits of Pardue's trust account showed the following deficiencies.
15. Pardue failed to reconcile the individual client ledger balances for the trust account with the general ledger and adjusted bank statement balances for the trust account at least quarterly.
16. Pardue failed to always identify the source of deposits on deposit slips.
17. The dates of deposits as shown on the client ledger did not always reconcile with the date of deposit as shown on the bank statement.
18. Pardue failed to provide accountings at least annually to clients for whom he held funds in trust for more than twelve months.
19. The investigative audit showed the following additional deficiencies in Pardue's handling of entrusted funds.
20. On 22 occasions, Pardue disbursed legal fees to himself from the trust account on the account of clients for whom he had not yet deposited funds into the trust account.
21. Pardue made the deposits into the trust account for each of these transactions one to three days after disbursing funds to himself.
22. In 13 other instances, Pardue disbursed funds on behalf of clients for whom Pardue had not yet deposited funds into the trust account.

23. In most of these instances, Pardue deposited funds into the trust account one to two days after the disbursements.

24. In one instance, Pardue failed to deposit funds into the trust account for five months.

25. On 9 occasions, Pardue disbursed funds to himself and third parties on behalf of clients for whom Pardue had not yet deposited funds into the trust account.

26. In most instances, Pardue made the deposits for these disbursements one to three days after the disbursements.

27. In one instance Pardue made the deposit five days after making the disbursement.

28. In another instance, Pardue made the deposit eight days after the disbursement.

29. Pardue used other clients' entrusted funds to cover the above described disbursements Pardue made for clients whose funds he had not yet deposited into the trust account.

THEREFORE, Plaintiff alleges that Pardue's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Pardue violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By failing to promptly reimburse the trust account for shortages that were created in the account by clerical errors and his failure to stop payment on two checks before issuing duplicate checks, Pardue failed to maintain entrusted property in accordance with the rules in violation of Rule 1.15-2(a) and used entrusted property for the personal benefit of persons other than the legal or beneficial owners of that property in violation of Rule 1.15-2(j);
- (b) By failing to reconcile the total of all individual client ledger balances for the trust account with the total general ledger and adjusted bank statements balances for the trust account at least quarterly, Pardue failed to perform the requisite quarterly reconciliations of his general trust account in violation of Rule 1.15-3(d);
- (c) By failing to always identify the source of deposits and failing to accurately record the correct date of deposit on deposit slips, Pardue failed to maintain the minimum records required for general trust accounts in violation of Rule 1.15-3(b);
- (d) By failing to provide each client with a written accounting of his or her trust account balance at least annually, Pardue failed to provide written

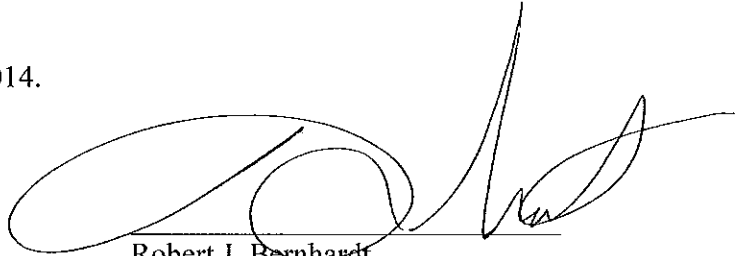
accountings of the receipt and disbursement of all trust funds to clients in violation of Rule 1.15-3(e); and

- (e) By disbursing funds from the trust account to himself and others on behalf of clients for whom Pardue had not yet deposited funds into the trust account, Pardue failed to maintain entrusted property in accordance with the rules in violation of Rule 1.15-2(a) and used entrusted property for the personal benefit of persons other than the legal or beneficial owners of that property in violation of Rule 1.15-2(j).

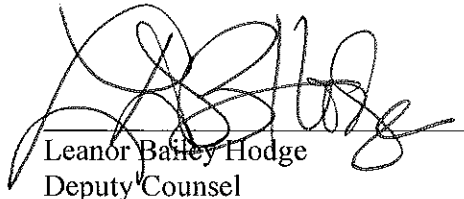
WHEREFORE, Plaintiff prays that:

1. Disciplinary action be taken against Defendant in accordance with N.C.G.S. § 84-28 (c) and 27 N.C.A.C. 1B § .0114 as the evidence on hearing may warrant;
2. Defendant be taxed with the administrative fees and with actual costs permitted by law in connection with the proceeding; and
3. For such other and further relief as the Hearing Panel deems appropriate.

The 24<sup>th</sup> day of November, 2014.



Robert J. Bernhardt  
Vice-Chair, Grievance Committee



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